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160805Z Jun 03

UNCLAS AMMAN 003549

SIPDIS

SENSITIVE

TREASURY FOR DO/CHRISTOPOULOS
USDOC FOR ITA/TAYLOR
USTR FOR FHUEGEL
OPIC FOR O'SULLIVAN
L/CID/GLEHNER
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E.O. 12958: N/A

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SUBJECT: EMBASSY AMMAN INPUT: 2003 REPORT ON INVESTMENT
DISPUTES AND EXPROPRIATION CLAIMS

REF: STATE 83098

SENSITIVE, BUT UNCLASSIFIED; PLEASE HANDLE ACCORDINGLY

1. (SBU) SUMMARY: Embassy Amman submits the following case for bureau consideration. Per instructions REFTEL, post notes that the case involves a U.S. company that purchased a non-U.S. company with an outstanding claim. END SUMMARY

CASE DESCRIPTION

2. (SBU) Claimant A is an American company that acquired a UK-based engineering and design company in 2001. The UK company had been hired by Claimant B (52% owned by the GOJ) in 1995 and in 1997 to design and supervise the construction of three earthen dikes, designated Dike A, Dike B, and Dike C, for Claimant B. In March, 2000, a large portion of Dike B collapsed, a collapse that Claimant A attributed to factors unrelated to the dike's design. As a consequence of the collapse, Claimant B asked Claimant A to investigate the safety of Dike A in March, 2001. In the course of its investigation, Claimant A discovered unacceptably strains on the dike and put in place urgent remedial measures to keep the dike safe pending a longer-term strategy for restoring the dike to normal operation. Claimant A requested payment of GBP90,000 (\$55000) from Claimant B for the remedial work. Claimant B asserted that any payment to Claimant A was offset by damages of JD37 million (\$26 million) for the collapse of Dike B.

STATUS OF DISPUTE

3. (SBU) Claimant A, citing the British-Jordanian Bilateral Investment Treaty, registered its dispute with the Jordanian Government (as majority owner of Claimant B) with the International Centre for Settlement of Investment Disputes (ICSID) in September, 2002 for arbitration. The Jordanian Government said that Claimant B is a commercial business rather than a government entity and that, as such, the dispute does not involve the GOJ and thus is not a matter for ICSID consideration. An ICSID tribunal has been constituted, and ICSID will decide whether it has jurisdiction after a hearing set for February 3, 2004.

4. (SBU) Claimant B initiated proceedings against Claimant A in the Jordanian Court of First Instance in November, 2002, claiming the damages cited above. Claimant A challenged the jurisdiction of Jordanian courts in the dispute and said that, given ICSID acceptance of the case, current Jordanian court proceedings should be discontinued. The Jordanian Court is expected to issue a ruling o/a June 12.

IDENTITY OF CLAIMANTS

5. (SBU) Claimant A is U.S.-based Jacobs Engineering. Claimant B is the Arab Potash Corporation (APC).
GNEHM